Nru. 82

MINISTERU GĦALL-IŻVILUPP SOSTENIBBLI, L-AMBJENT U TIBDIL FIL-KLIMA

IL-MINISTRU għall-Iżvilupp Sostenibbli, l-Ambjent u t-Tibdil fil-Klima, flimkien mas-Segretarju Parlamentari għall-Ippjanar u Simplifikazzjoni ta' Proċessi Amministrattivi, wara konsultazzjoni mal-Awtorità ta' Malta dwar l-Ambjent u l-Ippjanar jgħarraf illi skont l-artikolu 61 tal-Att dwar l-Ambjent u l-Ippjanar (Kap. 504) għaddej proċess ta' konsultazzjoni pubblika dwar Regolamenti tal-2015 dwar Skema ta' Liċenzi għall-Infurzar tal-Liġi, il-Governanza u l-Kummerċ fis-Settur tal-Forestrija (ara paġni 653 sa 658).

Kull min jixtieq jagħmel il-kummenti tiegħu jista' jibgħat *email* fuq (eutr.msdec@gov.mt).

Is-27 ta' Jannar, 2015

No. 82

MINISTRY FOR SUSTAINABLE DEVELOPMENT, THE ENVIRONMENT AND CLIMATE CHANGE

THE Minister for Sustainable Development, the Environment and Climate Change, together with the Parliamentary Secretary for Planning and Simplification of Administrative Processes, after consultation with the Malta Environment and Planning Authority notifies that in terms of article 61 of the Environment and Development Planning Act (Cap. 504) a public consultation on the Forest Law Enforcement, Governance and Trade Licencing Scheme Regulations, 2015 is underway (see pages 659 to 663).

Anyone who wishes to make representations about these Rules should send an email on (eutr.msdec@gov.mt).

27th January, 2015

A.L. tal-2015

ATT DWAR L-AMBJENT U L-IPPJANAR TAL-IŻVILUPP (KAP. 504)

Regolamenti tal-2015 dwar Skema ta' Liċenzi għall-Infurzar tal-Liġi, il-Governanza u l-Kummerċ fis-Settur tal-Forestrija

BIS-SAĦĦA tas-setgħat mogħtija bl-artikolu 61 tal-Att dwar l-Ambjent u l-Ippjanar tal-Iżvilupp, il-Ministru għall-Iżvilupp Sostenibbli, l-Ambjent u t-Tibdil fil-Klima u s-Segretarju Parlamentari għall-Ippjanar u Simplifikazzjoni ta' Proċessi Amministrattivi, wara konsultazzjoni mal-Awtorità ta' Malta dwar l-Ambjent u l-Ippjanar għamlu dawn ir-regolamenti li ġejjin:-

Titolu.

1. It-titolu ta' dawn ir-regolamenti hu r-Regolamenti tal-2015 dwar Skema ta' Liċenzi għall-Infurzar tal-Liġi, il-Governanza u l-Kummerċ fis-Settur tal-Forestrija.

Skop.

2. (1) Dawn ir-regolamenti jimplimentaw id-dispożizzjonijiet:

(a) tar-Regolament tal-Kunsill (KE) Nru 2173/2005 tal-20 ta' Diċembru 2005 dwar l-istabbiliment ta' skema ta' liċenzjar FLEGT għall-importazzjoni ta' injam fil-Komunità Ewropea kif emendat bir-Regolament (UE) Nru 657/2014 tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Mejju 2014 li jemenda r-Regolament tal-Kunsill (KE) Nru 2173/2005 fir-rigward tas-setgħat delegati u tas-setgħat ta' implimentazzjoni li għandhom jingħataw lill-Kummissjoni, hawn iżjed 'il quddiem imsejjaħ "ir-Regolament (KE) Nru 2173/2005"; u

(b) tar-Regolament tal-Kummissjoni (KE) Nru 1024/2008 tas-17 ta' Ottubru 2008 li jistabbilixxi miżuri dettaljati għall-implimentazzjoni tar-Regolament tal-Kunsill (KE) Nru 2173/2005 dwar il-ħolqien ta' skema ta' liċenzi FLEGT għall-importazzjoni ta' injam fil-Komunità Ewropea, kif jista' jiġi emendat minn żmien għal żmien, hawn iżjed 'il quddiem imsejjaħ "ir-Regolament Implimentattiv".

Tifsir.

3. (1) F'dawn ir-regolamenti, jekk kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra:

"awtorità kompetenti" tfisser id-Direttorat tal-Agrikoltura;

"Direttur" tfisser id-Direttur tal-Agrikoltura u, sal-limitu tal-funzjonijiet mogħtija, tinkludi kull uffiċjal pubbliku awtorizzat minnu bil-miktub, sabiex jaġixxi f'ismu għal xi wieħed mill-għanijiet ta' dawn ir-regolamenti;

"injam" tfisser injam u prodotti tal-injam kif elenkati fl-Annessi II u III għar-Regolament (KE) Nru 2173/2005 kif jistgħu jiġu emendati minn żmien għal żmien;

"operatur ekonomiku" tfisser persuna li, matul l-attività tan-negozju tagħha hija involuta f'attivitajiet koperti mil-leġiżlazzjoni doganali;

"pajjiż imsieħeb" tfisser kwalunkwe Stat jew organizzazzjoni reġjonali li jidħlu fi Ftehim ta' Sħubija mal-Unjoni Ewropea, kif elenkati fl-Anness I għar-Regolament (KE) Nru 2173/2005;

"persuna" tfisser kull persuna, sew naturali jew ġuridika, korporata jew mhix korporata, u tinkludi kull persuna li taġixxi f'isimha jew taħt xi istruzzjonijiet ta' kwalunkwe mgħallem, sid jew min iħaddem.

(2) Kemm-il darba l-kuntest ma jkunx jeħtieġ xort'oħra, kliem u espressjonijiet użati f'dawn ir-regolamenti għandu jkollhom l-istess tifsira mogħtija lilhom fl-Artikolu 2 tar-Regolament (KE) Nru 2173/2005.

(3) Fil-każ ta' nuqqas ta' qbil bejn dawn ir-regolamenti u d-dispożizzjonijiet tar-Regolament (KE) Nru 2173/2005, dan tal-aħħar jipprevali.

Awtorità kompetenti.

4. (1) Id-Direttorat tal-Agrikoltura għandu jkun l-awtorità kompetenti għall-finijiet ta' dawn ir-regolamenti, ir-Regolament (KE) Nru 2173/2005 u r-Regolament Implimentattiv.

(2) Bla ħsara għad-dispożizzjonijiet ta' dawn ir-regolamenti, l-awtorità kompetenti għandha tkun responsabbli għall-implimentazzjoni tar-Regolament (KE) Nru 2173/2005 kif ukoll sabiex tikkomunika mal-Kummissjoni fir-rigward tal-imsemmi Regolament.

Liċenza FLEGT.

5. (1) Kull persuna li tfittex li timporta injam minn pajjiż imsieħeb għandha tissottometti liċenza FLEGT, li tkopri l-merkanzija, lill-awtorità kompetenti qabel ma tasal il-merkanzija u fi żmien li jkun suffiċjenti sabiex din tiġi validata.

(2) Liċenza FLEGT għandha tkun preżentata lill-awtorità kompetenti bil-lingwa Ingliża.

Funzjonijiet tal-uffiċjali.

6. (1) Id-Direttur jista', għall-finijiet ta' dawn ir-regolamenti, jaħtar uffiċjali li jkollhom dawk il-funzjonijiet li huwa jqis neċessarji sabiex jinfurzaw u jimplimentaw kull dispożizzjoni ta' dawn ir-regolamenti, ir-Regolament (KE) 2173/2005 u r-Regolament Implimentattiv, u uffiċjal hekk maħtur għandu jkollu d-dritt li:

(a) jidħol f'kull post fil-ħinijiet raġonevoli kollha, wara li jagħti preavviż u juri dokument ta' identifikazzjoni:

Iżda r-rekwiżit ta' preavviż ma japplikax f'każijiet meta diversi tentattivi sabiex jingħata appuntament ma jirnexxux, jew meta tali preavviż jmur kontra l-iskop tad-dħul, jew meta jkun hemm suspett raġonevoli li jkun sar reat kontra dawn ir-regolamenti;

(b) jwaqqaf u, jew jitla' abbord kull vettura jew bastiment li l-ispettur jkollu tabilħaqq għaliex jifhem li qed iġorr l-injam;

(ċ) jispezzjona l-post, kull impjant, makkinarju jew apparat, kontejners u njam li jkun jinstab fuq is-sit;

(d) jkollu aċċess għal, jispezzjona u jikkopja kull dokumentazzjoni, reġistri u informazzjoni oħra li għalihom japplikaw dawn ir-regolamenti, fi kwalunkwe forma li jkunu miżmuma, u jeħodhom sabiex jagħmel kopja jekk ikun jeħtieġ li *records* b'format diġitali jiġu prodotti permezz ta' mezz ieħor sabiex ikun hemm aċċess għalihom faċilment u jkunu jistgħu jittieħdu mill-uffiċjal;

(e) jieħu kampjun tal-injam;

(f) jwettaq kull analiżi, investigazzjoni, jew test; u

(g) jieħu ritratti fotografiċi, qisien jew reġistrazzjonijiet.

(2) Operatur ekonomiku għandu jipprovdi kull għajnuna raġonevoli lil kull uffiċjal awtorizzat li jaġixxi skont is-subregolament (1), u b'mod partikolari għandu:

(a) jipproduċi għall-ispezzjoni dak id-dokument jew record skont kif jista' jkun meħtieġ minn dak l-uffiċjal awtorizzat;

(b) jqiegħed kull injam kif meħtieġ disponibbli għall-analiżi.

Assistenza.

7. Għall-finijiet tal-infurzar tad-dispożizzjonijiet ta' dawn ir-regolamenti, id-Direttur jista' jitlob l-assistenza minn membri tal-Korp tal-Pulizija u mill-Komptrollur tad-Dwana.

Reati u pieni.

8. (1) Persuna għandha tinstab ħatja ta' reat taħt dawn ir-regolamenti jekk:

(a) tonqos milli tikkonforma mal-projbizzjoni dwar importazzjoni ta' injam minn pajiżi msieħba sakemm dawn ma jkunux koperti b'liċenza FLEGT skont l-Artikolu 4(1) tar-Regolament (KE) Nru 2173/2005;

(b) tuża liċenza falza, iffalsifikata, invalida jew skaduta jew liċenza mmodifikata mingħajr awtorizzazzjoni għal kwalunkwe raġuni, b'konnessjoni ma' dawn ir-regolamenti;

(ċ) ma tagħmilx notifikazzjoni tal-importazzjoni jew tagħmel notifikazzjoni ta' importazzjoni falza;

(d) tagħmel użu minn liċenza għal xi importazzjoni ta' injam differenti minn dik li għaliha tkun ħarġet il-liċenza;

(e) tonqos milli tissottometti liċenza FLEGT lill-awtorità kompetenti skont ir-regolament 5;

(f) tonqos milli tikkonforma jew tikser xi dispożizzjoni ta' dawn ir-regolamenti, tar-Regolament (KE) Nru 2173/2005, jew tar-Regolament Implimentattiv jew tonqos milli tikkonforma ma' xi ordni mogħtija leġittimament skont xi dispożizzjoni tar-Regolament (KE) Nru 2173/2005, tar-Regolament Implimentattiv jew ta' dawn ir-regolamenti;

(g) tibdel, tiffalsifika bi kwalunkwe mod, tħassar jew teqred xi dokument mogħti lil jew maħruġ mid-Direttur skont dawn ir-regolamenti;

(h) tikkonfoffa jew tipprova, jew tgħin, jew tħajjar, lil xi persuna oħra bi kwalunkwe mezz, inkluż ir-reklamar, l-għoti ta' pariri jew ġegħil biex tikser id-dispożizzjonijiet ta' dawn ir-regolamenti jew biex tonqos milli tikkonforma ruħha ma' xi dispożizzjonijiet simili, inkluża xi ordni mogħtija legalment skont xi dispożizzjoni ta' dawn ir-regolamenti, jew biex tikser xi restrizzjoni, projbizzjoni jew ħtieġa imposta minn jew taħt ir-regolamenti msemmija;

(i) b'intenzjoni tostakola jew tikkawża ostakolu lil xi persuna li tkun qiegħda taġixxi fl-eżerċizzju proprju tal-funzjonijiet tagħha taħt dawn ir-regolamenti u, jew tonqos milli tħalli li ssir spezzjoni awtorizzata taħt dawn ir-regolamenti;

(j) mingħajr raġuni valida, tonqos milli tagħti lil xi persuna li tkun qiegħda taġixxi fl-eżerċizzju proprju tal-funzjonijiet tagħha taħt dawn ir-regolamenti, kull assistenza jew informazzjoni li tista' teħtieġ li tingħata skont dawn ir-regolamenti jew xi liġi oħra, jew tagħti informazzjoni falza jew qarrieqa.

(2) Persuna li tagħmel reat kontra d-dispożizzjonijiet ta' dawn ir-regolamenti teħel, meta tinstab ħatja:

(a) għall-ewwel reat, multa ta' mhux inqas minn elf u ħames mitt euro (€1,500), iżda mhux aktar minn ħamsa u għoxrin elf euro (€25,000);

(b) meta tinstab ħatja għat-tieni darba jew aktar, multa ta' mhux inqas minn elfejn u ħames mitt euro (€2,500), iżda mhux aktar minn ħamsin elf euro (€50,000).

(3) Meta persuna tkun instabet ħatja ta' xi reat kontra dawn ir-regolamenti, il-Qorti tista' b'żjieda ma' xi piena oħra li tkun imponiet:

(a) tordna l-konfiska ta' kull injam u beni jew ħwejjeġ oħra relatati mar-reat favur il-Gvern u jekk hekk konfiskati għandu jsir disponiment minnhom b'tali mod kif determinat mill-Qorti fuq parir tad-Direttur;

(b) tikkundanna l-ħati għal perijodu ta' priġunerija ta' mhux inqas minn tletin ġurnata iżda mhux aktar minn sentejn.

(4) Kull persuna li tinstab ħatja ta' reat kontra dawn ir-regolamenti għandha wkoll tħallas għal dawk l-ispejjeż imġarrba għall-ħażna, tneħħija, trasport u disponiment tal-prodotti importati u kull spiża oħra mġarrba fir-rigward ta' dawn il-proċedimenti.

Applikabilità tal-Kodiċi Kriminali. Kap. 9.

9. (1) Id-dispożizzjonijiet tal-artikoli 23 u 30(1) tal-Kodiċi Kriminali għandhom, *mutatis mutandis*, japplikaw għal proċedimenti fir-rigward ta' reati kontra dawn ir-regolamenti, b'dan illi l-iskwalifika miż-żamma jew il-ksib ta' xi *warrant*, liċenza, permess jew awtorità ma għandha f'ebda każ tkun għal anqas minn sena.

Kap. 9.

(2) Minkejja d-dispożizzjonijiet tal-artikolu 370 tal-Kodiċi Kriminali, proċeduri għal xi reat kontra dawn ir-regolamenti għandhom jittieħdu mill-Qorti tal-Maġistrati (Malta) jew mill-Qorti tal-Maġistrati (Għawdex), skont il-każ, u għandhom isiru skont id-dispożizzjonijiet tal-Kodiċi Kriminali li jirregolaw il-proċedura quddiem dawk il-qrati bħala qrati ta' ġudikatura kriminali.

L.N. of 2015

ENVIRONMENT AND DEVELOPMENT PLANNING ACT (CAP. 504)

Forest Law Enforcement, Governance and Trade Licensing Scheme Regulations, 2015

IN EXERCISE of the powers conferred by article 61 of the Environment and Development Planning Act, the Minister for Sustainable Development, the Environment and Climate Change and Parliamentary Secretary for Planning and Simplification of Administrative Processes, after consultation with the Malta Environment and Planning Authority, have made the following regulations:-

Citation.

1. The title of these regulations is the Forest Law Enforcement, Governance and Trade Licensing Scheme Regulations, 2015.

Scope.

2. These regulations provide for the implementation of the provisions of:

(a) Council Regulation (EC) No. 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community as amended by Regulation (EU) No. 657/2014 of the European Parliament and of the Council of 15 May 2014 amending Council Regulation (EC) No. 2173/2005 as regards the delegated and implementing powers to be conferred on the Commission, hereinafter referred to as "Regulation (EC) No. 2173/2005"; and

(b) Commission Regulation (EC) No. 1024/2008 laying down detailed measures for the implementation of Council Regulation (EC) No. 2173/2005, as may be amended from time to time, hereinafter referred to as "the Implementing Regulation".

Interpretation.

3. (1) In these regulations, unless the context otherwise requires:

"competent authority" means the Directorate of Agriculture;

"Director" means the Director of Agriculture and includes, to the extent of the authority given, any officer authorized by him, in writing, to act in that behalf for any of the purposes of these regulations;

"economic operator" means a person who, in the course of his or her business is involved in activities covered by the customs legislation;

"partner country" means a country listed in Annex I of Regulation (EC) No. 2173/2005, as may be amended from time to time;

"person" means any person, whether natural or legal, corporate or incorporate, and includes any person acting on his own behalf or under the instructions of any employer, master or owner;

"timber" means timber and timber products as listed in Annex II and III of Regulation (EC) No. 2173/2005, as may be amended from time to time.

(2) Unless the context otherwise requires, words and expressions used in these regulations shall have the same meaning assigned to them in Article 2 of Regulation (EC) No. 2173/2005.

(3) In the event that any of these regulations conflict with the provisions of Regulation (EC) No. 2173/2005, the latter shall prevail.

Competent authority.

4. (1) The Directorate of Agriculture is the competent authority for the purposes of these regulations, Regulation (EC) No. 2173/2005 and the Implementing Regulation.

(2) Without prejudice to the provisions of these regulations, the competent authority shall be responsible for the implementation of Regulation (EC) No. 2173/2005 and for communicating with the Commission in terms of the said Regulation.

FLEGT licence.

5. (1) Any person seeking to import timber from a partner country shall submit a FLEGT licence, covering the shipment, to the competent authority prior to the arrival of the shipment and in sufficient time to allow for its validation.

(2) A FLEGT licence presented to the competent authority must be made available in the English language.

Functions of officers.

6. (1) The Director may, for the purposes of these regulations, appoint officers who will have such functions as the Director may deem necessary for the enforcement and implementation of any provision of these regulations, Regulation (EC) No. 2173/2005 and the Implementing Regulation, and shall have the right to:

(a) enter into premises at all reasonable times, after giving prior notice and upon production of identification:

Provided that the requirement to give prior notice shall not apply in cases when efforts to arrange an appointment have failed, or when such notice would defeat the purpose of the entry, or where there is reasonable suspicion that an offence against these regulations has been committed;

(b) stop and, or board any vehicle or vessel that the officer has reasonable grounds to believe is transporting timber;

(c) inspect the premises, any plant, machinery or equipment, containers and timber found on the premises;

(d) have access to, examine and copy any documentation, records or other information to which these regulations may apply, in whatever form they are held, and remove them to enable them to be copied or require computer records to be produced in a form in which they may be easily accessed and taken away by the officer;

(e) take samples of any timber;

(f) carry out any examination, investigation or test; and

(g) take photographs, measurements or recordings.

(2) An economic operator shall provide all reasonable assistance to any authorized officer acting in terms of sub-regulation (1) and in particular shall:

(a) produce for inspection such document or record as may be required by such authorized officer;

(b) make available for examination any timber as may be required.

Assistance.

7. For the purposes of enforcing the provisions of these regulations, the Director may request the assistance of members of the Police Force and of the Comptroller of Customs.

Offences and penalties.

8. (1) Any person shall be guilty of an offence under these regulations if he:

(a) fails to comply with the prohibition on timber imports from partner countries unless covered by a FLEGT licence in accordance with Article 4(1) of Regulation (EC) No. 2173/2005;

(b) use a false, falsified, invalid or expired licence or one altered without authorization for any purpose in connection with these regulations;

(c) makes no import notification or a false import notification;

(d) makes use of a licence for any other timber shipments other than the one for which it was issued;

(e) fails to submit the FLEGT licence to the competent authority in accordance with regulation 5;

(f) fails to comply with, or contravenes, any provision of these regulations, Regulation (EC) No. 2173/2005 or the Implementing Regulation or fails to comply with any order lawfully given in terms of any provision of Regulation (EC) No. 2173/2005, the Implementing Regulation or these regulations;

(g) alters, forges, counterfeits or destroys any licence or document presented to or issued by the Director under these regulations;

(h) conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any of the provisions of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations;

(i) intentionally obstructs or causes the obstruction of any person acting in the proper exercise of his functions under these regulations and, or fails to allow an inspection authorized under these regulations;

(j) without reasonable cause, fails to give any person, acting in the exercise of his functions under these regulations, any assistance or information which he may be required to give under these regulations or any other law, or gives false or misleading information.

(2) Any person who is found guilty of an offence against the provisions of these regulations shall, on conviction, be liable:

(a) on a first conviction to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not exceeding twenty five thousand euro (€25,000);

(b) on a second or subsequent convictions, to a fine (*multa*) of not less than two thousand and five hundred euro (€2,500) but not exceeding fifty thousand euro (€50,000).

(3) Where any person is convicted of an offence against these regulations, the Court may in addition to any other penalty that it may impose:

(a) order that the timber and any other goods or things to which the offence relates be forfeited to the Government and if so forfeited shall be disposed of in such a manner as the Court may determine on the advice of the Director;

(b) sentence the offender to imprisonment for a term of not less than thirty days and not exceeding two years.

(4) Any person who has been found guilty of committing an offence against these regulations shall also pay for the expenses incurred for the storage, removal, transport and disposal of the imported goods and any other expenses incurred in relation to these proceedings.

Applicability of the Criminal Code. Cap. 9.

9. (1) The provisions of articles 23 and 30(1) of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a warrant, licence, permit or authority shall in no case be less than one year.

Cap. 9.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.